

**210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR No.1902 of 2010 (O&M)
Date of decision : July 28, 2017**

Dharamvir (Dharambir) Petitioner

Versus

The State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. B.S. Saroha, Advocate for the petitioner.

Mr. Pawan Garg, AAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

The present revision is filed against the judgment dated 08.07.2010 passed by the learned Addl. Sessions Judge, Faridabad, affirming the judgment of conviction dated 13.01.2010 and order of sentence dated 18.01.2010 passed by the learned Judicial Magistrate 1st Class-cum-Presiding Officer, Special Environment Court, Faridabad, vide which the present petitioner was convicted and sentenced as under:

<i>Sr. No.</i>	<i>Offence</i>	<i>Imprisonment</i>	<i>Fine</i>
1	279 IPC	S.I. for six months	₹1,000/-
2	304-A IPC	S.I. for six months	₹1,500/-

Both the sentences were ordered to run concurrently.

I have heard learned counsel for the parties and have also carefully gone through the case file.

It is alleged that the petitioner was the driver of three-wheeler bearing registration No.HR-38F-6584. On 15.09.2001, when the complainant along with Krishan Gopal, Dharampal and Ravi boarded the three-wheeler of the petitioner, he was driving the three-wheeler at high speed in rash and negligent manner. He was asked time and again by the

passengers to drive properly but he ignored it. When he reached Kheri Turn, he suddenly took left and right rash turns due to which the three-wheeler over turns, as a result of which, Krishan Gopal, one of the passengers, received injuries. He was later on removed to the hospital, where he was declared dead.

A perusal of the file shows that the complainant has supported his case. The accused-petitioner also led defence evidence, in which the over turning of the three-wheeler was not denied but the blame was put on a motorcyclist, who suddenly applied brakes. The evidence led in defence by the accused-petitioner was disbelieved by the lower court.

The three wheeler has only one wheel on its front side, therefore, it has to be driven with extra care and caution. When a sudden turn is taken, it can over turn. When it was overloaded, the driver should have been more careful in taking a sudden turn, but he did not do so, which amounts to rash and negligent act on the part of the driver. Thus, there is no illegality or infirmity in the findings recorded by both the courts below. The sentence of simple imprisonment of six months awarded by the lower court for the commission of offence punishable under Section 304-A IPC is already on the lower side, rather inadequate.

It being so, there is no ground to interfere in the findings recorded by both the courts below. Therefore, the present revision petition is dismissed. The petitioner, who is on bail, is ordered to be rearrested and confined to jail to undergo remaining part of sentence.

(KULDIP SINGH)
JUDGE

July 28, 2017

sarita

Whether speaking / reasoned

Yes

Whether Reportable:

No